

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JOSEPH YOUNG,	§
	§
Defendant Below-	§ No. 91, 2009
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0701026598
Plaintiff Below-	§
Appellee.	§

Submitted: April 16, 2009

Decided: June 2, 2009

Before **HOLLAND, BERGER**, and **JACOBS**, Justices.

ORDER

This 2nd day of June 2009, after careful consideration of appellant's opening brief and the State's motion to affirm, we find it manifest that the appeal is subject to dismissal because the judgment of the Superior Court, which denied appellant's motion for discovery, is an unappealable interlocutory order in a criminal case.¹ Appellant first must file a petition for postconviction relief under Superior Court Criminal Rule 61 before he can seek to compel discovery.

NOW, THEREFORE, IT IS ORDERED that the within appeal is hereby DISMISSED.

BY THE COURT:

/s/ Carolyn Berger
Justice

¹ *In re Shockley*, 2005 WL 2475731 (Del. Aug. 16, 2005).